

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TODD AUPPERLEE, et al)	
)	
and)	
)	
MICHAEL ARCHER,)	
QUINCY JONES, and)	
DAVID WABINDATO)	
)	
Plaintiffs,)	Case No. 1:13-cv-01080-RJJ
)	Hon. Robert J. Jonker
vs.)	
)	FIRST AMENDED COMPLAINT
)	
CITY OF BATTLE CREEK, MICHIGAN)	
)	
Defendant.)	
_____)	

Plaintiffs, by counsel and pursuant to FED. R. CIV. P. 15(a)(1)(A), for their First Amended Complaint against Defendant, City of Battle Creek, Michigan, state as follows:

1. Plaintiffs adopt, reiterate, reaffirm, and incorporate herein by reference the Complaint previously filed in the instant action and any and all allegations set forth therein.
2. This First Amended Complaint is in addition to and not as a substitute for the Complaint previously filed in the instant action. The purpose of this First Amended Complaint is to join three additional individuals as Plaintiffs and to correct the spelling of an individual who already is a party plaintiff.
3. Plaintiffs, Michael Archer, Quincy Jones and David Wabindato, are employed by Defendant, City of Battle Creek, Michigan (hereinafter "the City"), in fire protection activities. Each Plaintiff listed in this paragraph is a member of International Association of Fire Fighters,

Local 335 (hereinafter “Union”) and has given his written consent to be a party plaintiff in this action pursuant to 29 U.S.C. § 216(b), which is attached hereto as Exhibit A.

4. Plaintiffs, Michael Archer, Quincy Jones and David Wabindato, adopt all allegations set forth in the Complaint previously filed in the instant action as their own and assert against the City all claims alleged in the Complaint previously filed in the instant action, including claims for violations of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* (hereinafter, “FLSA”), the Michigan Minimum Wage Law of 1964, M.C.L. § 408.381, *et seq.* (hereinafter, “MMWL”), and contract law.

5. In the Complaint previously filed in the instant action, Plaintiff, James Ramey, was erroneously identified as “James Ramsy.” All references to “James Ramsy” in the previous Complaint filed in the instant action are hereby amended to state “James Ramey.”

WHEREFORE, Plaintiffs, Michael Archer, Quincy Jones and David Wabindato, on their own behalf and on behalf of others similarly situated, demand:

- a. A declaratory judgment against the City declaring that the City has violated its statutory obligations and deprived Plaintiffs of their rights, and, in so doing, the City acted willfully and in bad faith;
- b. A complete and accurate accounting of all compensation to which Plaintiffs are entitled;
- c. A judgment against the City for Plaintiffs’ monetary damages, including, but not limited to, an amount equal to the correct overtime compensation due Plaintiffs; any additional back pay due Plaintiffs; an additional amount equal to Plaintiffs’ unpaid overtime compensation and any additional back pay as liquidated damages; the reduction in the value of Plaintiffs’ pension benefits; Plaintiffs’ case expenses and reasonable attorney fees; interest at the legal rate

or statutory rate on each payment as it became due until paid; costs of this action; and any further incidental or consequential damages as alleged herein and as to be determined at the trial of this action;

- d. Trial by jury on all issues so triable; and
- e. Any and all other relief to which Plaintiffs may be entitled.

s/R. Sean Deskins
Ann B. Oldfather (KY 52553)¹
R. Sean Deskins (KY 92430)²
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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served on the following via United States mail on October 2, 2013:

City of Battle Creek
c/o Susan Baldwin, Mayor
10 North Division Street
Battle Creek, MI 49014

A true and correct copy of the foregoing also will be served on the above along with Summons and the Complaint.

s/R. Sean Deskins

¹ Admitted to practice in the United States District Court for the Western District of Michigan on September 17, 2013.

² Admitted to practice in the United States District Court for the Western District of Michigan on September 13, 2013.